



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1651

Introduced 2/24/2005, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
210 ILCS 45/1-113	from Ch. 111 1/2, par. 4151-113
305 ILCS 5/5-5.01a	
320 ILCS 42/20	

Amends the Illinois Health Facilities Planning Act, the Nursing Home Care Act, the Illinois Public Aid Code, and the Older Adult Services Act. Under the Illinois Public Aid Code, provides that the Department of Public Aid shall establish and maintain a supportive living facilities program (instead of a demonstration project). Amends the other Acts to make conforming changes. Effective immediately.

LRB094 11173 DRJ 41829 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Section 3 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on July 1, 2006)

8 Sec. 3. Definitions. As used in this Act:

9 "Health care facilities" means and includes the following
10 facilities and organizations:

11 1. An ambulatory surgical treatment center required to
12 be licensed pursuant to the Ambulatory Surgical Treatment
13 Center Act;

14 2. An institution, place, building, or agency required
15 to be licensed pursuant to the Hospital Licensing Act;

16 3. Skilled and intermediate long term care facilities
17 licensed under the Nursing Home Care Act;

18 3. Skilled and intermediate long term care facilities
19 licensed under the Nursing Home Care Act;

20 4. Hospitals, nursing homes, ambulatory surgical
21 treatment centers, or kidney disease treatment centers
22 maintained by the State or any department or agency
23 thereof;

24 5. Kidney disease treatment centers, including a
25 free-standing hemodialysis unit required to be licensed
26 under the End Stage Renal Disease Facility Act; and

27 6. An institution, place, building, or room used for
28 the performance of outpatient surgical procedures that is
29 leased, owned, or operated by or on behalf of an
30 out-of-state facility.

31 No federally owned facility shall be subject to the
32 provisions of this Act, nor facilities used solely for healing

1 by prayer or spiritual means.

2 No facility licensed under the Supportive Residences
3 Licensing Act or the Assisted Living and Shared Housing Act
4 shall be subject to the provisions of this Act.

5 A facility designated as a supportive living facility that
6 is in good standing with the program ~~demonstration project~~
7 established under Section 5-5.01a of the Illinois Public Aid
8 Code shall not be subject to the provisions of this Act.

9 This Act does not apply to facilities granted waivers under
10 Section 3-102.2 of the Nursing Home Care Act. However, if a
11 demonstration project under that Act applies for a certificate
12 of need to convert to a nursing facility, it shall meet the
13 licensure and certificate of need requirements in effect as of
14 the date of application.

15 This Act does not apply to a dialysis facility that
16 provides only dialysis training, support, and related services
17 to individuals with end stage renal disease who have elected to
18 receive home dialysis. This Act does not apply to a dialysis
19 unit located in a licensed nursing home that offers or provides
20 dialysis-related services to residents with end stage renal
21 disease who have elected to receive home dialysis within the
22 nursing home. The Board, however, may require these dialysis
23 facilities and licensed nursing homes to report statistical
24 information on a quarterly basis to the Board to be used by the
25 Board to conduct analyses on the need for proposed kidney
26 disease treatment centers.

27 This Act shall not apply to the closure of an entity or a
28 portion of an entity licensed under the Nursing Home Care Act
29 that elects to convert, in whole or in part, to an assisted
30 living or shared housing establishment licensed under the
31 Assisted Living and Shared Housing Act.

32 With the exception of those health care facilities
33 specifically included in this Section, nothing in this Act
34 shall be intended to include facilities operated as a part of
35 the practice of a physician or other licensed health care
36 professional, whether practicing in his individual capacity or

1 within the legal structure of any partnership, medical or
2 professional corporation, or unincorporated medical or
3 professional group. Further, this Act shall not apply to
4 physicians or other licensed health care professional's
5 practices where such practices are carried out in a portion of
6 a health care facility under contract with such health care
7 facility by a physician or by other licensed health care
8 professionals, whether practicing in his individual capacity
9 or within the legal structure of any partnership, medical or
10 professional corporation, or unincorporated medical or
11 professional groups. This Act shall apply to construction or
12 modification and to establishment by such health care facility
13 of such contracted portion which is subject to facility
14 licensing requirements, irrespective of the party responsible
15 for such action or attendant financial obligation.

16 "Person" means any one or more natural persons, legal
17 entities, governmental bodies other than federal, or any
18 combination thereof.

19 "Consumer" means any person other than a person (a) whose
20 major occupation currently involves or whose official capacity
21 within the last 12 months has involved the providing,
22 administering or financing of any type of health care facility,
23 (b) who is engaged in health research or the teaching of
24 health, (c) who has a material financial interest in any
25 activity which involves the providing, administering or
26 financing of any type of health care facility, or (d) who is or
27 ever has been a member of the immediate family of the person
28 defined by (a), (b), or (c).

29 "State Board" means the Health Facilities Planning Board.

30 "Construction or modification" means the establishment,
31 erection, building, alteration, reconstruction, modernization,
32 improvement, extension, discontinuation, change of ownership,
33 of or by a health care facility, or the purchase or acquisition
34 by or through a health care facility of equipment or service
35 for diagnostic or therapeutic purposes or for facility
36 administration or operation, or any capital expenditure made by

1 or on behalf of a health care facility which exceeds the
2 capital expenditure minimum; however, any capital expenditure
3 made by or on behalf of a health care facility for (i) the
4 construction or modification of a facility licensed under the
5 Assisted Living and Shared Housing Act or (ii) a conversion
6 project undertaken in accordance with Section 30 of the Older
7 Adult Services Act shall be excluded from any obligations under
8 this Act.

9 "Establish" means the construction of a health care
10 facility or the replacement of an existing facility on another
11 site.

12 "Major medical equipment" means medical equipment which is
13 used for the provision of medical and other health services and
14 which costs in excess of the capital expenditure minimum,
15 except that such term does not include medical equipment
16 acquired by or on behalf of a clinical laboratory to provide
17 clinical laboratory services if the clinical laboratory is
18 independent of a physician's office and a hospital and it has
19 been determined under Title XVIII of the Social Security Act to
20 meet the requirements of paragraphs (10) and (11) of Section
21 1861(s) of such Act. In determining whether medical equipment
22 has a value in excess of the capital expenditure minimum, the
23 value of studies, surveys, designs, plans, working drawings,
24 specifications, and other activities essential to the
25 acquisition of such equipment shall be included.

26 "Capital Expenditure" means an expenditure: (A) made by or
27 on behalf of a health care facility (as such a facility is
28 defined in this Act); and (B) which under generally accepted
29 accounting principles is not properly chargeable as an expense
30 of operation and maintenance, or is made to obtain by lease or
31 comparable arrangement any facility or part thereof or any
32 equipment for a facility or part; and which exceeds the capital
33 expenditure minimum.

34 For the purpose of this paragraph, the cost of any studies,
35 surveys, designs, plans, working drawings, specifications, and
36 other activities essential to the acquisition, improvement,

1 expansion, or replacement of any plant or equipment with
2 respect to which an expenditure is made shall be included in
3 determining if such expenditure exceeds the capital
4 expenditures minimum. Donations of equipment or facilities to a
5 health care facility which if acquired directly by such
6 facility would be subject to review under this Act shall be
7 considered capital expenditures, and a transfer of equipment or
8 facilities for less than fair market value shall be considered
9 a capital expenditure for purposes of this Act if a transfer of
10 the equipment or facilities at fair market value would be
11 subject to review.

12 "Capital expenditure minimum" means \$6,000,000, which
13 shall be annually adjusted to reflect the increase in
14 construction costs due to inflation, for major medical
15 equipment and for all other capital expenditures; provided,
16 however, that when a capital expenditure is for the
17 construction or modification of a health and fitness center,
18 "capital expenditure minimum" means the capital expenditure
19 minimum for all other capital expenditures in effect on March
20 1, 2000, which shall be annually adjusted to reflect the
21 increase in construction costs due to inflation.

22 "Non-clinical service area" means an area (i) for the
23 benefit of the patients, visitors, staff, or employees of a
24 health care facility and (ii) not directly related to the
25 diagnosis, treatment, or rehabilitation of persons receiving
26 services from the health care facility. "Non-clinical service
27 areas" include, but are not limited to, chapels; gift shops;
28 news stands; computer systems; tunnels, walkways, and
29 elevators; telephone systems; projects to comply with life
30 safety codes; educational facilities; student housing;
31 patient, employee, staff, and visitor dining areas;
32 administration and volunteer offices; modernization of
33 structural components (such as roof replacement and masonry
34 work); boiler repair or replacement; vehicle maintenance and
35 storage facilities; parking facilities; mechanical systems for
36 heating, ventilation, and air conditioning; loading docks; and

1 repair or replacement of carpeting, tile, wall coverings,
2 window coverings or treatments, or furniture. Solely for the
3 purpose of this definition, "non-clinical service area" does
4 not include health and fitness centers.

5 "Areawide" means a major area of the State delineated on a
6 geographic, demographic, and functional basis for health
7 planning and for health service and having within it one or
8 more local areas for health planning and health service. The
9 term "region", as contrasted with the term "subregion", and the
10 word "area" may be used synonymously with the term "areawide".

11 "Local" means a subarea of a delineated major area that on
12 a geographic, demographic, and functional basis may be
13 considered to be part of such major area. The term "subregion"
14 may be used synonymously with the term "local".

15 "Areawide health planning organization" or "Comprehensive
16 health planning organization" means the health systems agency
17 designated by the Secretary, Department of Health and Human
18 Services or any successor agency.

19 "Local health planning organization" means those local
20 health planning organizations that are designated as such by
21 the areawide health planning organization of the appropriate
22 area.

23 "Physician" means a person licensed to practice in
24 accordance with the Medical Practice Act of 1987, as amended.

25 "Licensed health care professional" means a person
26 licensed to practice a health profession under pertinent
27 licensing statutes of the State of Illinois.

28 "Director" means the Director of the Illinois Department of
29 Public Health.

30 "Agency" means the Illinois Department of Public Health.

31 "Comprehensive health planning" means health planning
32 concerned with the total population and all health and
33 associated problems that affect the well-being of people and
34 that encompasses health services, health manpower, and health
35 facilities; and the coordination among these and with those
36 social, economic, and environmental factors that affect

1 health.

2 "Alternative health care model" means a facility or program
3 authorized under the Alternative Health Care Delivery Act.

4 "Out-of-state facility" means a person that is both (i)
5 licensed as a hospital or as an ambulatory surgery center under
6 the laws of another state or that qualifies as a hospital or an
7 ambulatory surgery center under regulations adopted pursuant
8 to the Social Security Act and (ii) not licensed under the
9 Ambulatory Surgical Treatment Center Act, the Hospital
10 Licensing Act, or the Nursing Home Care Act. Affiliates of
11 out-of-state facilities shall be considered out-of-state
12 facilities. Affiliates of Illinois licensed health care
13 facilities 100% owned by an Illinois licensed health care
14 facility, its parent, or Illinois physicians licensed to
15 practice medicine in all its branches shall not be considered
16 out-of-state facilities. Nothing in this definition shall be
17 construed to include an office or any part of an office of a
18 physician licensed to practice medicine in all its branches in
19 Illinois that is not required to be licensed under the
20 Ambulatory Surgical Treatment Center Act.

21 "Change of ownership of a health care facility" means a
22 change in the person who has ownership or control of a health
23 care facility's physical plant and capital assets. A change in
24 ownership is indicated by the following transactions: sale,
25 transfer, acquisition, lease, change of sponsorship, or other
26 means of transferring control.

27 "Related person" means any person that: (i) is at least 50%
28 owned, directly or indirectly, by either the health care
29 facility or a person owning, directly or indirectly, at least
30 50% of the health care facility; or (ii) owns, directly or
31 indirectly, at least 50% of the health care facility.

32 "Charity care" means care provided by a health care
33 facility for which the provider does not expect to receive
34 payment from the patient or a third-party payer.

35 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
36 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; revised 10-25-04.)

1 Section 10. The Nursing Home Care Act is amended by
2 changing Section 1-113 as follows:

3 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

4 Sec. 1-113. "Facility" or "long-term care facility" means a
5 private home, institution, building, residence, or any other
6 place, whether operated for profit or not, or a county home for
7 the infirm and chronically ill operated pursuant to Division
8 5-21 or 5-22 of the Counties Code, or any similar institution
9 operated by a political subdivision of the State of Illinois,
10 which provides, through its ownership or management, personal
11 care, sheltered care or nursing for 3 or more persons, not
12 related to the applicant or owner by blood or marriage. It
13 includes skilled nursing facilities and intermediate care
14 facilities as those terms are defined in Title XVIII and Title
15 XIX of the Federal Social Security Act. It also includes homes,
16 institutions, or other places operated by or under the
17 authority of the Illinois Department of Veterans' Affairs.

18 "Facility" does not include the following:

19 (1) A home, institution, or other place operated by the
20 federal government or agency thereof, or by the State of
21 Illinois, other than homes, institutions, or other places
22 operated by or under the authority of the Illinois Department
23 of Veterans' Affairs;

24 (2) A hospital, sanitarium, or other institution whose
25 principal activity or business is the diagnosis, care, and
26 treatment of human illness through the maintenance and
27 operation as organized facilities therefor, which is required
28 to be licensed under the Hospital Licensing Act;

29 (3) Any "facility for child care" as defined in the Child
30 Care Act of 1969;

31 (4) Any "Community Living Facility" as defined in the
32 Community Living Facilities Licensing Act;

33 (5) Any "community residential alternative" as defined in
34 the Community Residential Alternatives Licensing Act;

1 (6) Any nursing home or sanatorium operated solely by and
2 for persons who rely exclusively upon treatment by spiritual
3 means through prayer, in accordance with the creed or tenets of
4 any well-recognized church or religious denomination. However,
5 such nursing home or sanatorium shall comply with all local
6 laws and rules relating to sanitation and safety;

7 (7) Any facility licensed by the Department of Human
8 Services as a community-integrated living arrangement as
9 defined in the Community-Integrated Living Arrangements
10 Licensure and Certification Act;

11 (8) Any "Supportive Residence" licensed under the
12 Supportive Residences Licensing Act;

13 (9) Any "supportive living facility" in good standing with
14 the program demonstration project established under Section
15 5-5.01a of the Illinois Public Aid Code;

16 (10) Any assisted living or shared housing establishment
17 licensed under the Assisted Living and Shared Housing Act; or

18 (11) An Alzheimer's disease management center alternative
19 health care model licensed under the Alternative Health Care
20 Delivery Act.

21 (Source: P.A. 90-14, eff. 7-1-97; 90-763, eff. 8-14-98; 91-656,
22 eff. 1-1-01; 91-838, eff. 6-16-00.)

23 Section 15. The Illinois Public Aid Code is amended by
24 changing Section 5-5.01a as follows:

25 (305 ILCS 5/5-5.01a)

26 Sec. 5-5.01a. Supportive living facilities program
27 ~~demonstration project~~. The ~~For the purpose of studying~~
28 ~~alternative settings for long term care, the~~ Department shall
29 ~~may~~ establish and provide oversight for a program demonstration
30 ~~project to determine the viability~~ of supportive living
31 facilities that seek to promote resident independence,
32 dignity, respect, and well-being in the most cost-effective
33 manner.

34 A supportive living facility is either a free-standing

1 facility or a distinct physical and operational entity within a
2 nursing facility. A supportive living facility integrates
3 housing with health, personal care, and supportive services and
4 is a designated setting that offers residents their own
5 separate, private, and distinct living units.

6 Sites for the operation of the program ~~Demonstration sites~~
7 shall be selected by the Department based upon criteria that
8 may include the need for services in a geographic area, the
9 availability of funding, and the site's ability to meet the
10 standards.

11 The Department may adopt rules to implement this Section.
12 Rules that establish or modify the services, standards, and
13 conditions for participation in the program ~~demonstration~~
14 ~~project~~ shall be adopted by the Department in consultation with
15 the Department on Aging, the Department of Rehabilitation
16 Services, and the Department of Mental Health and Developmental
17 Disabilities (or their successor agencies).

18 Facilities or distinct parts of facilities which are
19 selected as supportive living facilities and are in good
20 standing with the Department's rules are exempt from the
21 provisions of the Nursing Home Care Act and the Illinois Health
22 Facilities Planning Act.

23 (Source: P.A. 89-499, eff. 6-28-96.)

24 Section 20. The Older Adult Services Act is amended by
25 changing Section 20 as follows:

26 (320 ILCS 42/20)

27 Sec. 20. Priority service areas; service expansion.

28 (a) The requirements of this Section are subject to the
29 availability of funding.

30 (b) The Department shall expand older adult services that
31 promote independence and permit older adults to remain in their
32 own homes and communities. Priority shall be given to both the
33 expansion of services and the development of new services in
34 priority service areas.

1 (c) Inventory of services. The Department shall develop and
2 maintain an inventory and assessment of (i) the types and
3 quantities of public older adult services and, to the extent
4 possible, privately provided older adult services, including
5 the unduplicated count, location, and characteristics of
6 individuals served by each facility, program, or service and
7 (ii) the resources supporting those services.

8 (d) Priority service areas. The Departments shall assess
9 the current and projected need for older adult services
10 throughout the State, analyze the results of the inventory, and
11 identify priority service areas, which shall serve as the basis
12 for a priority service plan to be filed with the Governor and
13 the General Assembly no later than July 1, 2006, and every 5
14 years thereafter.

15 (e) Moneys appropriated by the General Assembly for the
16 purpose of this Section, receipts from donations, grants, fees,
17 or taxes that may accrue from any public or private sources to
18 the Department for the purpose of this Section, and savings
19 attributable to the nursing home conversion program as
20 calculated in subsection (h) shall be deposited into the
21 Department on Aging State Projects Fund. Interest earned by
22 those moneys in the Fund shall be credited to the Fund.

23 (f) Moneys described in subsection (e) from the Department
24 on Aging State Projects Fund shall be used for older adult
25 services, regardless of where the older adult receives the
26 service, with priority given to both the expansion of services
27 and the development of new services in priority service areas.
28 Fundable services shall include:

- 29 (1) Housing, health services, and supportive services:
30 (A) adult day care;
31 (B) adult day care for persons with Alzheimer's
32 disease and related disorders;
33 (C) activities of daily living;
34 (D) care-related supplies and equipment;
35 (E) case management;
36 (F) community reintegration;

- 1 (G) companion;
- 2 (H) congregate meals;
- 3 (I) counseling and education;
- 4 (J) elder abuse prevention and intervention;
- 5 (K) emergency response and monitoring;
- 6 (L) environmental modifications;
- 7 (M) family caregiver support;
- 8 (N) financial;
- 9 (O) home delivered meals;
- 10 (P) homemaker;
- 11 (Q) home health;
- 12 (R) hospice;
- 13 (S) laundry;
- 14 (T) long-term care ombudsman;
- 15 (U) medication reminders;
- 16 (V) money management;
- 17 (W) nutrition services;
- 18 (X) personal care;
- 19 (Y) respite care;
- 20 (Z) residential care;
- 21 (AA) senior benefits outreach;
- 22 (BB) senior centers;
- 23 (CC) services provided under the Assisted Living
24 and Shared Housing Act, or sheltered care services that
25 meet the requirements of the Assisted Living and Shared
26 Housing Act, or services provided under Section
27 5-5.01a of the Illinois Public Aid Code (the Supportive
28 Living Facilities ~~Pilot~~ Program);
- 29 (DD) telemedicine devices to monitor recipients in
30 their own homes as an alternative to hospital care,
31 nursing home care, or home visits;
- 32 (EE) training for direct family caregivers;
- 33 (FF) transition;
- 34 (GG) transportation;
- 35 (HH) wellness and fitness programs; and
- 36 (II) other programs designed to assist older

1 adults in Illinois to remain independent and receive
2 services in the most integrated residential setting
3 possible for that person.

4 (2) Older Adult Services Demonstration Grants,
5 pursuant to subsection (g) of this Section.

6 (g) Older Adult Services Demonstration Grants. The
7 Department shall establish a program of demonstration grants to
8 assist in the restructuring of the delivery system for older
9 adult services and provide funding for innovative service
10 delivery models and system change and integration initiatives.
11 The Department shall prescribe, by rule, the grant application
12 process. At a minimum, every application must include:

- 13 (1) The type of grant sought;
- 14 (2) A description of the project;
- 15 (3) The objective of the project;
- 16 (4) The likelihood of the project meeting identified
17 needs;
- 18 (5) The plan for financing, administration, and
19 evaluation of the project;
- 20 (6) The timetable for implementation;
- 21 (7) The roles and capabilities of responsible
22 individuals and organizations;
- 23 (8) Documentation of collaboration with other service
24 providers, local community government leaders, and other
25 stakeholders, other providers, and any other stakeholders
26 in the community;
- 27 (9) Documentation of community support for the
28 project, including support by other service providers,
29 local community government leaders, and other
30 stakeholders;
- 31 (10) The total budget for the project;
- 32 (11) The financial condition of the applicant; and
- 33 (12) Any other application requirements that may be
34 established by the Department by rule.

35 Each project may include provisions for a designated staff
36 person who is responsible for the development of the project

1 and recruitment of providers.

2 Projects may include, but are not limited to: adult family
3 foster care; family adult day care; assisted living in a
4 supervised apartment; personal services in a subsidized
5 housing project; evening and weekend home care coverage; small
6 incentive grants to attract new providers; money following the
7 person; cash and counseling; managed long-term care; and at
8 least one respite care project that establishes a local
9 coordinated network of volunteer and paid respite workers,
10 coordinates assignment of respite workers to caregivers and
11 older adults, ensures the health and safety of the older adult,
12 provides training for caregivers, and ensures that support
13 groups are available in the community.

14 A demonstration project funded in whole or in part by an
15 Older Adult Services Demonstration Grant is exempt from the
16 requirements of the Illinois Health Facilities Planning Act. To
17 the extent applicable, however, for the purpose of maintaining
18 the statewide inventory authorized by the Illinois Health
19 Facilities Planning Act, the Department shall send to the
20 Health Facilities Planning Board a copy of each grant award
21 made under this subsection (g).

22 The Department, in collaboration with the Departments of
23 Public Health and Public Aid, shall evaluate the effectiveness
24 of the projects receiving grants under this Section.

25 (h) No later than July 1 of each year, the Department of
26 Public Health shall provide information to the Department of
27 Public Aid to enable the Department of Public Aid to annually
28 document and verify the savings attributable to the nursing
29 home conversion program for the previous fiscal year to
30 estimate an annual amount of such savings that may be
31 appropriated to the Department on Aging State Projects Fund and
32 notify the General Assembly, the Department on Aging, the
33 Department of Human Services, and the Advisory Committee of the
34 savings no later than October 1 of the same fiscal year.

35 (Source: P.A. 93-1031, eff. 8-27-04.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.